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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/788,910	02/27/2004	Klaus-Sweerich Schroder	SSM-525US	7519
23122	7590	06/02/2006	EXAMINER	
RATNERPRESTIA P O BOX 980 VALLEY FORGE, PA 19482-0980			GREENHUT, CHARLES N	
			ART UNIT	PAPER NUMBER
			3652	

DATE MAILED: 06/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/788,910	SCHRODER, KLAUS-SWEERICH	
	Examiner	Art Unit	
	Charles N. Greenhut	3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

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I. Claim Objections

1. Claim 7 is objected to because “and wherein said one end of the withdrawing means” in line 3, should read, - and wherein ~~said~~ one end of the withdrawing means- -.
2. Claim 7 is objected to because “it slaves said end of the withdrawing means” in line 6, should read, - it slaves said one end of the withdrawing means- -.

II. Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claim(s) 18-22 and 26-27 is/are rejected under 35 U.S.C. 102(b) as being anticipated by STROCKER (US 4,721,425 A).
 - 1.1. With respect to claim 18, STROCKER discloses a storage container (1), feeding device (31), withdrawing means protruding through a column of bulk goods (27), and a rake conveyor comprising a traction member and rakes (15).
 - 1.2. With respect to claim 19 and 27, STROCKER discloses a carrying-off means comprising a rake conveyor (15), engaging with the upper surface of bulk goods (Fig. 1), conveying the bulk goods to a withdrawing means (21) and transferring the bulk goods downward onto a conveyor (Col. 6 Li. 25-26).
 - 1.3. With respect to claim 20, STROCKER additionally discloses the bulk good fall through the withdrawing means (Col. 6 Li. 16-17).

- 1.4. With respect to claim 21, STROCKER additionally discloses the withdrawing means protruding and the bulk goods conveyed to the center from a periphery.
- 1.5. With respect to claim 22, STROCKER additionally discloses a fall pipe (22).
- 1.6. With respect to claim 26, STROCKER additionally discloses the withdrawing means is a vertically conveying means (Fig. 1).

III. Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claim(s) 1-14, 16 and 23-25 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over STROCKER (US 4,721,425 A) in view of STEFANIK (US 5,176,295 A).

- 1.1. With respect to claim 1, STROCKER teaches a storage container (1), feeding device (31), a clearing members (45) and withdrawing the bulk goods from above. STROCKER fails to teach spiked shafts mating with each other. STEFANIK teaches spiked shafts mating with each other (Fig. 7). It would have been obvious to one of ordinary skill in the art to modify the clearing members of STROCKER with the mating spiked shafts of STEFANIK in order to promote separation of packed bulk goods.
- 1.2. With respect to claim 2, STROCKER additionally teaches a withdrawing means protruding in terms of height (27), and a conveying direction from a periphery of the column of bulk goods toward the withdrawing means (Fig. 7).

- 1.3. With respect to claim 3, STROCKER additionally teaches a fall pipe (22).
- 1.4. With respect to claim 4, STROCKER additionally teaches the fall pipe can be changed in length (Col. 6 Li. 16-17).
- 1.5. With respect to claim 5, STROCKER additionally teaches the fall pipe comprising segments which can be axial slid into each other and slave each other (Col. 6 Li. 16-17).
- 1.6. With respect to claim 6, STROCKER additionally teaches the clearing members can be lowered and the withdrawing means changed in length.
- 1.7. With respect to claim 7, STROCKER additionally teaches a frame, the upper end of the withdrawing means connected thereto (Fig. 2).
- 1.8. With respect to claim 8, STROCKER additionally teaches a withdrawing conveyor beneath the withdrawing means (Col. 6 Li. 25-26).
- 1.9. With respect to claim 9, STROCKER additionally teaches the clearing members can rotate and the frame can be lowered and raised.
- 1.10. With respect to claim 10, STROCKER additionally teaches a lowering and raising frame (7) and a pivoting frame (40).
- 1.11. With respect to claim 11, STROCKER additionally teaches a support (12) on the container (1) preventing pivoting of the lowering and rising frame (7).
- 1.12. With respect to claim 12, STROCKER additionally teaches a guiding cam and engagement member (12)/(9).

- 1.13. With respect to claim 13, STROCKER additionally teaches a lowering and rising drive (8) inherently having a motor, since the lowering and rising frame would be too heavy to be operated by a hand winch.
- 1.14. With respect to claim 14, STROCKER additionally discloses a winch drive (8).
- 1.15. With respect to claim 16, STROCKER additionally teaches the rate at which clearing members are lowered is set in accordance with the plunging depth. (moment difference M1-M2 variation effectively translating into plunging depth variation, *See* Col 9 Li 2 et seq.)
- 1.16. With respect to claim 23, STROCKER additionally teaches the pipe segments slave each other when the pipe is extended.
- 1.17. With respect to claim 24, STROCKER additionally teaches the guiding cam (12) connected to a sidewall preventing rotation (Fig. 6).
- 1.18. With respect to claim 25, STROCKER additionally teaches the engaging element (9) connected to the frame (7) preventing rotation.
2. Claim(s) 15 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over STROCKER in view of STEFANIK and further in view of DE BOWER (US 3,596,783 A).
 - 2.1. With respect to claim 15, STROCKER additionally teaches a regulator or controller (Col 9 Li 39-42). DE BOWER teaches a distance sensor (52). It would have been obvious to one of ordinary skill in the art to modify STROCKER with the distance sensor of DE BOWER in order to determine if lowering or raising of the frame is required to engage the top surface of the bulk goods.

3. Claim(s) 17 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over STROCKER in view of STEFANIK and further in view of CRAINE (US 1,968,071 A)

3.1. With respect to claim 17, STROCKER teaches a storage container (1), feeding device (31), clearing members (45) arranged to withdraw the bulk goods from above. STROCKER fails to teach spiked shafts mating with each other and at least two storage devices having a common feeding device. STEFANIK teaches spiked shafts mating with each other (Fig. 7). It would have been obvious to one of ordinary skill in the art to modify the clearing members of STROCKER with the mating spiked shafts of STEFANIK in order to promote separation of packed bulk goods. CRAINE teaches at least two storage devices (15)/(16)/(17) and a common feeding device (23). It would have been obvious to one of ordinary skill in the art to modify STROCKER with the additional storage device of CRAINE in order to permit shuffling of the bulk goods.

IV. Response to Applicant's Arguments

Applicant's arguments entered 4/5/06 have been fully considered but are not persuasive.

1. Applicant argues that STROCKER fails to anticipate claims 18-19 because stoker fails to disclose a "rake conveyor." This argument is not persuasive. This assertion is apparently based on the fact that applicant is looking solely to Fig. 1 for detail of scraper booms (15). It is true that Figure 1 does not show sufficient detail to assert that (15) could be considered a rake conveyor, however, Figure 7 supplies further detail of (15) and clearly discloses a "rake conveyor."

2. With respect to claims 1-14, 16, and 23-25 applicant argues that there is no motivation to combine the spiked shafts of STEFANIK with STROCKER. This argument is not persuasive. Applicants argument is based on the premise that because STROCKER is intended for use with granular materials there would be no reason to used the spiked shafts of STEFANIK which are intended for packed materials. The examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. There is no requirement that the primary reference supply the motivation for modification. In this case the motivation to combine the teachings of STEFANIK is found in STEFANIK, which states the spiked shafts are intended for movement of “non-free-flowing material.” Therefore, it would have been obvious to one of ordinary skill in the art to modify STROCKER with the spiked shafts of STEFANIK in order to move non-free-flowing material. Applicant further contends that one of ordinary skill in the art would not be led to combine the teaching of the references in order to improve the capacity of the silo. This is not relevant. While there must be a motivation to make the claimed invention, there is no requirement that the prior art provide the same reason as the applicant to make the claimed invention.

V. Conclusion

1. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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2. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.
3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles N. Greenhut whose telephone number is (571) 272-1517. The examiner can normally be reached on 7:30am - 4:00pm EST.
4. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.
5. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CG


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